

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2676, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Thompson/Sessions amendment No. 2356, to strike the exemptions from criminal conflict laws for board member from employee organization.

AMENDMENT NO. 2356

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. shall be equally divided on the Thompson-Sessions amendment No. 2356.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we brought this amendment up yesterday and had a brief discussion. My understanding is we have 30 minutes equally divided; is that correct?

The PRESIDING OFFICER. There are 12 minutes on each side and the time is equally divided until 10 a.m.

Mr. THOMPSON. Mr. President, as you know, part of the IRS reform bill has to do with the creation of an IRS Oversight Board. One of the new members of the IRS Oversight Board is delineated as a representative of an IRS employees union. However, because of the inherent conflict of interest in this new member's position, the union representative was exempted from four essential ethics laws in the criminal code. That is what our amendment addresses, because the ethics experts in the Office of Government Ethics say these provisions are unprecedented and inadvisable and antithetical to sound Government ethics policy; thus, to sound Government.

In an era in which we seem to receive an awful lot of very general and hazy messages from the bureaucracy, we are getting a quite definitive, clear-cut opinion out of the Office of Government Ethics with regard to this exemption, and that is that these provisions are unprecedented and, therefore, inadvisable.

I think it makes common sense. I must say that my primary interest in this as chairman of the Governmental Affairs Committee has to do with the rules under which our Federal employees operate. We do have an Office of Government Ethics. We do have ethics provisions. They are for good reason. We could talk about these provisions in

some detail, but, generally speaking, one of the main things they try to address is to keep people from being compensated by outside entities and outside groups while they are on the Federal Government's payroll. In other words, if an employee is going to be on the Federal Government payroll, they should not be compensated by some outside group when they come and lobby the Federal Government. That is just sound common sense.

I understand that an agreement was reached, or at least it was voted on in the committee, to have this representative on this nine-member board. We could debate back and forth whether or not that is a good idea. But this amendment does not say that a person of this kind cannot be on the board. All it says is that this person is going to be treated like every other member of the board, and that is that they will not be exempt from the ethics laws. The private members who are on this board are certainly going to have to live under the ethics laws.

For example, the day after appointment of the board, the private board member could not meet with representatives of the IRS or Treasury on behalf of a client or the board members' corporate employer with respect to proposed tax regulations. These prohibitions apply across the board to all members. It said that it creates somewhat of a hardship on the union representative. Perhaps in all cases there will not be a conflict.

As I look at some of the provisions that were discussed in committee in terms of the reasons for the creation of the board and the various functions that the board will have, I see where part of the function is to review and approve IRS strategic plans; for example, including the establishment of mission and objectives and long-range plans. I can see an argument being made that this union representative would not have a conflict of interest regarding that particular function of this board. Another function is to review the operational functions of the IRS. Another is to recommend to the President candidates for the Commission.

I can see an argument being made that this would not create a conflict of interest. So it is indeed arguable that there will be certain functions in which this board member could participate. It is not our position to sit and factually delineate every possibility that might come up. Quite frankly, it is going to be primarily on the board member to determine that themselves. I see other functions where, to me, there is a clear conflict of interest, and that is, to review the operation of the IRS to ensure the treatment of taxpayers, to review procedures of IRS relating to financial audits.

I can see where someone representing the IRS employees union—a paid employee of the employees union would have a real problem in sitting on this board and trying to determine what

the rules ought to be with regard to those employees concerning the way they conduct their audits. That is just common sense.

Now, there is one thing I think we need to keep in mind. We all know that we have many—certainly the great majority—IRS employees who are loyal, dedicated public servants. But let's not forget the reason why we have this IRS reform bill on the floor to start with; and that is, we saw an absolutely appalling, unprecedented array of rogue activities, which you would not see in a lot of good police states, conducted by some of these IRS agents out in the field. We saw people like Howard Baker and Former Congressman Quillen, who were actually targeted, and they attempted to set up these individuals. These are the kinds of things that are part of the reason that we have the bill and part of the reason that we have this oversight board.

So in order to say that a union member is going to have some problem some time about sitting on this board as they represent those very employees—the ones that are good, bad and indifferent—is no reason to carve them out and exempt them from these ethics provisions.

So I think it is a bad step, Mr. President, if the very first thing we do in starting out and trying to reform IRS is to say that with regard to some of these employees we are going to exempt them from the ethics laws. I might point out also that as I read the bill, it doesn't seem to me like it necessarily has to be a paid employee, a paid union official of the IRS employees union. In other words, I would think that a member could serve on this board who would simply be a union member and could be a representative. If they were not taking payment and compensation from the union, as a professional union representative, then perhaps a lot of these conflicts would be alleviated.

So we are trying to work out something reasonable here on the front end. But make no mistake about it, it would be a terrible mistake in the face of the clear advice of the Office of Government Ethics to say the first thing we are going to do is exempt these people who are, in some cases the source of their problem, from the ethics laws under which everybody else is going to have to live.

I yield the floor.

Mr. KERREY. Mr. President, I would like to ask the Senator from Tennessee if he would answer a question. For the purpose of engaging in this debate, does he support having a union rep on the board, an employee rep on the board? That would be an amendment that will come up. I believe, later on, trying the individual on the board.

Mr. THOMPSON. I do not think it is wise to have such a representative on the board. That is another question. In fact, I think the Office of Government Ethics has the same opinion. They do not think it is wise to have a union